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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/528,724

01/04/2007

Richard T. Timmer

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EXAMINER

BALASUBRAMANIAN, VENKATARAMAN

ART UNIT

PAPER NUMBER

1624

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/528,724	TIMMER ET AL.	
	Examiner	Art Unit	
	Venkataraman Balasubramanian	1624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

The preliminary amendment, which included cancellation of claims 1-40 and addition of new claims 41-66, filed on 3/22/2005, are made of record. Claims 41-66 are now pending.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 41-66 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 7,112,587. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subgenus of compounds and composition claimed in the instant application are also embraced in the claims 1-6 of U.S. Patent No. 7,112,587. Note the trisubstituent groups of present in the triazine core of copending application overlap with instant disubstitutedphenyl-NH, NH-Y¹ and R¹-N-Y² groups. Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to make species using claims 1-6 of U.S. Patent No. 7,112,587 and expect resulting

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compounds to possess the uses taught by the art in view of the equivalency teaching outline above.

Claims 41-66 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 7,132,423. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subgenus of compounds and composition claimed in the instant application are also embraced in the claims 1-6 of U.S. Patent No. 7,132,423. Note the trisubstituent groups present in the triazine core of U.S. Patent No. 7,132,423 overlap with instant disubstitutedphenyl-NH, NH-Y¹ and R¹-N-Y² groups. Thus, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to make species using claims 1-6 of U.S. Patent No. 7,132,423 and expect resulting compounds to possess the uses taught by the art in view of the equivalency teaching outline above.

Claims 41-66 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 7,163,943. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subgenus of compounds and composition claimed in the instant application are also embraced in the claims 1-6 of U.S. Patent No. 7,163,943. Note when E is carbon, z =0, compounds claimed in U.S. Patent No. 7,163,943 overlap with the compounds of instant claims. Note the groups disubstitutedphenyl-NH, NH-Y¹ and R¹-N-Y² groups present in the triazine core of instant application overlap with G-Z, A-Y¹ and B-Y² groups present in the triazine core of the copending application. Thus, it would

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be obvious to one trained in the art to make the compounds and composition of the copending application leading to instant compounds and composition and expect them to have use taught in the copending application.

Claims 41-66 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-29 of U.S. Patent No. 7,169,785. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subgenus of compounds and composition claimed in the instant application are also embraced in the claims of the US Patent 7,169,785. Note the groups disubstitutedphenyl-NH, NH-Y¹ and R¹-N-Y² groups present in the triazine core of instant application overlap with R¹, R² and R³ groups present in the triazine core of the copending application. Thus, it would be obvious to one trained in the art to make the compounds and composition leading to instant compounds and composition of the US Patent and expect them to have use taught in the US Patent 7,169,785.

Claims 41-66 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-70 of U.S. Patent No. 7,173,032. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subgenus of compounds and composition claimed in the instant application are also embraced in the claims of the US Patent 7,173,032. Note the groups disubstitutedphenyl-NH, NH-Y¹ and R¹-N-Y² groups present in the triazine core of instant application overlap with trisubstituents groups present in the triazine core of the copending application. Thus, it would be obvious to one trained in the art to make

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the compounds and composition leading to instant compounds and composition of the US Patent and expect them to have use taught in the US Patent 7,173,032.

Claims 41-66 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-39 of copending Application No. 11/284,757. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subgenus of compounds and composition claimed in the instant application are also embraced in the claims of the copending application 11/284,757. Note the groups disubstitutedphenyl-NH, NH-Y¹ and R¹-N-Y² groups present in the triazine core of instant application overlap with trisubstituents groups present in the triazine core of the copending application. Thus, it would be obvious to one trained in the art to make the compounds and composition of the copending application leading to instant compounds and composition and expect them to have use taught in the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 41-66 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of copending Application No. 11/441,326. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subgenus of compounds and composition claimed in the instant application are also embraced in the claims of the copending application 11/441,326. Note the groups disubstitutedphenyl-NH, NH-Y¹ and R¹-N-Y² groups present in the triazine core of instant application overlap with

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trisubstituents groups present in the triazine core of the copending application. Thus, it would be obvious to one trained in the art to make the compounds and composition of the copending application leading to instant compounds and composition and expect them to have use taught in the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 41-66 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 11/543,969. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subgenus of compounds and composition claimed in the instant application are also embraced in the claims of the copending application 11/543,969. Note the groups disubstitutedphenyl-NH, NH-Y¹ and R¹-N-Y² groups present in the triazine core of instant application overlap with trisubstituents groups present in the triazine core of the copending application. Thus, it would be obvious to one trained in the art to make the compounds and composition of the copending application leading to instant compounds and composition and expect them to have use taught in the copending application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (571)

272-0662. The examiner can normally be reached on Monday through Thursday from 8.00 AM to 6.00 PM. The Supervisory Patent Examiner (SPE) of the art unit 1624 is James O. Wilson, whose telephone number is 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAG. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-2 17-9197 (toll-free).


Venkataraman Balasubramanian

3/2/2007